

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014010263

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On January 8, 2014, Student filed a due process hearing request (complaint), naming Oakland Unified School District (District). On April 11, 2014, Student filed a motion to amend the Due Process Hearing Request (amended complaint). District filed an opposition on April 14, 2014.

APPLICABLE LAW

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

DISCUSSION AND ORDER

District argues that Student's motion to amend the complaint should be denied because Student did not file an accompanying declaration explaining why the motion was not filed before the prehearing conference (PHC) of April 7, 2014, in accordance with the undersigned's PHC order. However, it was apparent during the PHC that Student had inadvertently neglected to include facts concerning the 2012-2013 school year in the complaint, as well as facts supporting a new issue he introduced in his PHC statement, namely, District's failure to provide Parent with his educational records. This information is now included in the amended complaint. Although Student's counsel should have filed an

¹ All statutory citations are to title 20 United States Code unless otherwise indicated.

accompanying declaration explaining why the amended complaint was being filed after the PHC, this procedural defect does not justify denying Student's motion. Going forward with the current hearing, and then having Student file a new complaint containing the previously omitted allegations, would result in a second hearing and constitute a waste of judicial resources, and an undue consumption of time.

District also opposes the motion to amend because this matter was continued in February 2014. However, good cause was shown by Student for that continuance, and District did not oppose that request.

The motion to amend is timely and is granted. The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

DATE: April 15, 2014

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings